

DIVISION OF CONSUMER ADVOCACY  
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PUBLIC UTILITIES  
COMMISSION

2004 DEC 15 P 4:31

FILED

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of )  
HAWAIIAN ELECTRIC COMPANY, INC. )  
For Approval of Rate Increases and Revised )  
Rate Schedules and Rules, and for Approval )  
and/or Modification of Demand-Side and )  
Load Management Programs and Recovery )  
of Program Costs and DSM Utility )  
Incentives. )

DOCKET NO. 04-0113

**CONSUMER ADVOCATE'S MEMORANDUM IN OPPOSITION  
TO ROCKY MOUNTAIN INSTITUTE'S MOTION TO INTERVENE**

Pursuant to the authority provided through Hawaii Revised Statutes ("HRS") §269-51, the Division of Consumer Advocacy ("Consumer Advocate") respectfully offers this Memorandum in Opposition to Rocky Mountain Institute's ("RMI") Motion to Intervene ("RMI Motion"), received on December 8, 2004.

The Consumer Advocate does not support RMI's application to intervene because the Consumer Advocate offers that RMI has not demonstrated satisfaction of the criteria set forth in Hawaii Administrative Rules ("HAR") §6-61-55.

## **I. DISCUSSION**

### **A. Background**

Hawaii Administrative Rules § 6-61-55 specifically provides that “[i]ntervention shall not be granted except on allegations which are reasonably pertinent to and do not unreasonably broaden the issues already presented.” Re: Hawaii Electric Light Co., Docket No. 7259, Order No. 12893 (December 2, 1993).

The Hawaii Supreme Court has observed that a potential party’s status as an intervening party, in a proceeding before the State of Hawaii Public Utilities Commission (“Commission”), “is not a matter of right but is a matter resting within the sound discretion of the Commission.” In re Hawaiian Electric Co., 56 Haw. 260, 262, 535 P.2d 1102 (1975).

### **B. RMI Has Not Met the Criteria Provided by HAR §6-61-55**

#### **1. RMI’s Argument**

In brief summary, RMI argues that their participation is necessary in this docket because they possess the “deep expertise” in matters including “effeciency optimization that focus on DSM technologies, business models, and regulation strategies.” Further, they assume that this docket will “define the regulatory treatment of demand side management programs in the state of Hawaii....” Finally, RMI asserts that the Consumer Advocate will not represent RMI’s interest with regards to fossil fuel dependency and regulatory treatment of DSM programs.

## **2. RMI's Basis for Intervention Is Misplaced**

RMI relies upon an erroneous assumption for the basis for intervention in this docket.

The reference to Demand-Side and Load Management Programs in the instant docket is applicable to cost recovery issues. The opportunity to intervene on matters related to DSM programs was available to RMI in prior dockets determining issues specific to those DSM programs.<sup>1</sup>

In the alternative, RMI should have the opportunity to address DSM issues in the Integrated Resource Planning process for Hawaiian Electric Company, Inc. (i.e., Docket No. 03-0253).

## **II. CONSUMER ADVOCATE IS CAPABLE OF REPRESENTING RMI'S INTEREST WITH REGARDS TO APPLICABLE RATEMAKING ISSUES**

The instant case involves the determination of reasonable rates and the benefit to the ratepayer offset by a reasonable benefit to the utility. The interests of ratepayers are adequately represented by the Consumer Advocate. No special mandate is required to address any particular DSM issue that may arise. The mandate of Haw. Rev. Stat. § 269-51 sufficiently provides that "The consumer advocate shall represent, protect, and advance the interests of all consumers, including small businesses, of utility services." In addition, the Consumer Advocate is charged with the responsibility to advocate the

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<sup>1</sup> See for example, Docket No. 03-0415—HECO's Commercial and Industrial Direct Load Control Program, Docket No. 03-0166—HECO's Residential Direct Load Control Program, and Docket No. 03-0142—HECO's Proposed Residential Customer Energy Awareness Program.

interests of the consumer of utility services separate and apart from the responsibilities of the public utilities commission.

RMI has not identified what particular consumer base or customer class RMI seeks to represent. Thus, it is arguable that RMI's participation will broaden the issues of the instant docket in order to review the Commission's determination or lack thereof of issues in the prior DSM dockets. This will lead to undue expansion of the scope of discovery. It is easily foreseeable that a duplicative effort by numerous parties to address similar rate issues or the effort of a party to expand the scope of the Commission's review beyond cost recovery issues will cause a delay in the proceedings.

### III. CONCLUSION

Based upon the foregoing, the Consumer Advocate respectfully requests that the Rocky Mountain Institute not be admitted as a party to the proceeding and that their Motion to Intervene be DENIED.

DATED: Honolulu, Hawaii December 15, 2004.

Respectfully submitted,

By 

JON S. ITOMURA  
Attorney for the  
Division of Consumer Advocacy

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing **DIVISION OF CONSUMER ADVOCACY'S MEMORANDUM IN OPPOSITION TO ROCKY MOUNTAIN INSTITUTE'S MOTION TO INTERVENE** was duly served upon the following parties, by personal service, hand delivery, and/or U.S. mail, postage prepaid, and properly addressed pursuant to HAR § 6-61-21(d).

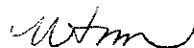
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DATED: Honolulu, Hawaii, December 15, 2004.

  
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